

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0058.02 Brita Darling x2241

HOUSE BILL 13-1058

HOUSE SPONSORSHIP

McCann,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING GUIDELINES FOR THE DETERMINATION OF SPOUSAL
102 MAINTENANCE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates a process, including guidelines as to amount and term, for determining an award for spousal maintenance at temporary or permanent orders in proceedings for dissolution of marriage, legal separation, or declaration of invalidity filed on or after January 1, 2014. Key points in the process include:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Initial findings of fact concerning each party's gross income, marital property, financial resources, and reasonable need as established during the marriage;
- ! Findings concerning the guideline amount and term of maintenance for marriages of at least 3 years where the parties' annual combined gross income does not exceed \$240,000; and
- ! Factors relating to the appropriate amount and term of maintenance.

The bill maintains the overall threshold standard of need contained in current law that the court must consider before entering a maintenance award.

The bill specifies that the maintenance guidelines as to the amount and term of maintenance do not create a presumption. The court maintains discretion to determine the maintenance award after making the required findings and considering all of the provisions of the law. The court must make written or oral findings in support of its maintenance award or a denial of maintenance.

Maintenance orders will be modified pursuant to the existing modification statute.

For dissolution of marriage, legal separation, or declaration of invalidity actions filed on or after January 1, 2014, maintenance awarded at permanent orders may be suspended, reduced, or modified based upon the cohabitation of the recipient spouse when the payor spouse can show that the recipient spouse has maintained a primary residence with another person as a couple for 6 months after the entry of the initial maintenance order. Maintenance may be reinstated upon the termination of the recipient spouse's cohabitation with another person, but shall not be reinstated beyond the original maintenance term.

The enactment of section 1 of the bill does not constitute a substantial and continuing change of circumstances for purposes of modifying existing maintenance orders.

The bill includes provisions for securing maintenance awards and for a party to waive maintenance, accept a reduced amount of maintenance, and to enter into agreements relating to maintenance.

Additionally, the bill defines "gross income" for purposes of applying the maintenance guidelines and for determining maintenance.

Finally, the bill amends the current statute for modification of maintenance by clarifying when maintenance terminates and by creating a presumption of good faith in favor of the payor spouse once he or she reaches full social security retirement age.

1 **SECTION 1.** In Colorado Revised Statutes, **recreate and**
2 **reenact, with amendments,** 14-10-114 as follows:

3 **14-10-114. Spousal maintenance - guidelines - legislative**
4 **declaration - definitions.** (1) **Legislative declaration.** (a) THE GENERAL
5 ASSEMBLY HEREBY FINDS THAT:

6 (I) THE ECONOMIC LIVES OF SPOUSES ARE FREQUENTLY CLOSELY
7 INTERTWINED IN MARRIAGE AND THAT IT IS OFTEN IMPOSSIBLE TO LATER
8 SEGREGATE THE RESPECTIVE DECISIONS AND CONTRIBUTIONS OF THE
9 SPOUSES; AND

10 (II) CONSEQUENTLY, AWARDED SPOUSAL MAINTENANCE MAY BE
11 APPROPRIATE IF A SPOUSE NEEDS SUPPORT AND THE OTHER SPOUSE HAS
12 THE ABILITY TO PAY SUPPORT.

13 (b) THE GENERAL ASSEMBLY FURTHER FINDS THAT:

14 (I) BECAUSE THE STATUTES PROVIDE LITTLE GUIDANCE TO THE
15 COURT CONCERNING MAINTENANCE AWARDS, THERE HAS BEEN
16 INCONSISTENCY IN THE AMOUNT AND TERM OF MAINTENANCE AWARDED
17 IN DIFFERENT JUDICIAL DISTRICTS ACROSS THE STATE IN CASES THAT
18 INVOLVE SIMILAR FACTUAL CIRCUMSTANCES; AND

19 (II) THE UNPREDICTABILITY OF MAINTENANCE AWARDS HAS
20 RESULTED IN THE PERCEPTION OF UNFAIRNESS IN THE JUDICIAL PROCESS;
21 AND

22 (III) CLEARER STATUTORY GUIDANCE WILL INCREASE
23 PREDICTABILITY IN MAINTENANCE AWARDS AND ENCOURAGE THE
24 SETTLEMENT OF MAINTENANCE ISSUES, THEREBY RESULTING IN A
25 REDUCED BURDEN ON THE JUDICIAL SYSTEM AND ON THE PARTIES.

26 (c) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS
27 APPROPRIATE TO CREATE A STATUTORY FRAMEWORK FOR THE

1 DETERMINATION OF MAINTENANCE AWARDS, INCLUDING GUIDELINES FOR
2 THE AMOUNT AND TERM OF MAINTENANCE IN CERTAIN CASES, THAT WILL
3 ASSIST THE COURT AND THE PARTIES IN CRAFTING MAINTENANCE AWARDS
4 THAT ARE FAIR, EQUITABLE, AND MORE CONSISTENT ACROSS JUDICIAL
5 DISTRICTS.

6 (2) AT THE TIME OF PERMANENT ORDERS IN DISSOLUTION OF
7 MARRIAGE, LEGAL SEPARATION, OR DECLARATION OF INVALIDITY
8 PROCEEDINGS, AND UPON THE REQUEST OF EITHER PARTY, THE COURT MAY
9 ORDER THE PAYMENT OF MAINTENANCE FROM ONE SPOUSE TO THE OTHER
10 PURSUANT TO THE PROVISIONS OF THIS SECTION. AN AWARD OF
11 MAINTENANCE SHALL BE IN AN AMOUNT AND FOR A TERM THAT IS FAIR
12 ANDEQUITABLE TO BOTH PARTIES AND SHALL BE MADE WITHOUT REGARD
13 TO MARITAL MISCONDUCT.

14 (3) (a) (I) **Determination of maintenance.** WHEN A PARTY HAS
15 REQUESTED MAINTENANCE IN A DISSOLUTION OF MARRIAGE, LEGAL
16 SEPARATION, OR DECLARATION OF INVALIDITY PROCEEDING, PRIOR TO
17 GRANTING OR DENYING AN AWARD OF MAINTENANCE, THE COURT SHALL
18 MAKE INITIAL WRITTEN OR ORAL FINDINGS CONCERNING:

19 (A) THE AMOUNT OF EACH PARTY'S GROSS INCOME;

20 (B) THE MARITAL PROPERTY APPORTIONED TO EACH PARTY;

21 (C) THE FINANCIAL RESOURCES OF EACH PARTY, INCLUDING BUT
22 NOT LIMITED TO THE ACTUAL OR POTENTIAL INCOME FROM SEPARATE OR
23 MARITAL PROPERTY; AND

24 (D) REASONABLE FINANCIAL NEED AS ESTABLISHED DURING THE
25 MARRIAGE.

26 (II) AFTER MAKING THE INITIAL FINDINGS DESCRIBED IN
27 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE COURT SHALL DETERMINE

1 THE AMOUNT AND TERM OF THE MAINTENANCE AWARD, IF ANY, THAT IS
2 FAIR AND EQUITABLE TO BOTH PARTIES AFTER CONSIDERING:

3 (A) THE GUIDELINE AMOUNT AND TERM OF MAINTENANCE SET
4 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (3), IF APPLICABLE, BASED
5 UPON THE DURATION OF THE MARRIAGE AND THE COMBINED GROSS
6 INCOMES OF THE PARTIES;

7 (B) THE FACTORS RELATING TO THE AMOUNT AND TERM OF
8 MAINTENANCE SET FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (3); AND

9 (C) WHETHER THE PARTY SEEKING MAINTENANCE HAS MET THE
10 REQUIREMENT FOR A MAINTENANCE AWARD PURSUANT TO PARAGRAPH (d)
11 OF THIS SUBSECTION (3).

12 (b) **Guideline amount and term of maintenance - combined**
13 **gross income of up to two hundred forty thousand dollars and**
14 **duration of marriage of at least three years.** IF THE DURATION OF THE
15 PARTIES' MARRIAGE IS AT LEAST THREE YEARS AND THE PARTIES'
16 COMBINED, ANNUAL ADJUSTED GROSS INCOME DOES NOT EXCEED THE
17 GREATER OF TWO HUNDRED FORTY THOUSAND DOLLARS OR THE
18 UPPERMOST LIMITS OF THE SCHEDULE OF BASIC CHILD SUPPORT
19 OBLIGATIONS SET FORTH IN SECTION 14-10-115, THE COURT SHALL MAKE
20 ADDITIONAL ORAL OR WRITTEN FINDINGS CONCERNING THE DURATION OF
21 THE MARRIAGE IN WHOLE MONTHS AND THE GUIDELINE AMOUNT AND
22 TERM OF MAINTENANCE, CALCULATED AS FOLLOWS:

23 (I) **Guideline maintenance amount.** THE AMOUNT OF
24 MAINTENANCE UNDER THE GUIDELINES IS EQUAL TO FORTY PERCENT OF
25 THE HIGHER INCOME PARTY'S MONTHLY ADJUSTED GROSS INCOME LESS
26 FIFTY PERCENT OF THE LOWER INCOME PARTY'S MONTHLY ADJUSTED
27 GROSS INCOME; EXCEPT THAT, WHEN ADDED TO THE GROSS INCOME OF THE

1 RECIPIENT, SHALL NOT RESULT IN THE RECIPIENT RECEIVING IN EXCESS OF
2 FORTY PERCENT OF THE PARTIES' COMBINED MONTHLY ADJUSTED GROSS
3 INCOME.

4 (II) (A) THE TERM OF MAINTENANCE UNDER THE GUIDELINES,
5 CALCULATED IN WHOLE MONTHS, FOR MARRIAGES OF AT LEAST THREE
6 YEARS BUT NOT MORE THAN TWENTY YEARS, IS SET FORTH IN THE TABLE
7 CONTAINED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II).
8 WHEN THE DURATION OF THE PARTIES' MARRIAGE EXCEEDS TWENTY
9 YEARS, THE COURT MAY AWARD MAINTENANCE FOR A SPECIFIED TERM OF
10 YEARS OR FOR AN INDEFINITE TERM, BUT THE COURT SHALL NOT SPECIFY
11 A MAINTENANCE TERM THAT IS LESS THAN THE MAINTENANCE TERM
12 UNDER THE GUIDELINES FOR A TWENTY-YEAR MARRIAGE WITHOUT
13 MAKING SPECIFIC FINDINGS THAT SUPPORT A REDUCED TERM OF
14 MAINTENANCE.

15 (B) **Table of guideline maintenance term (in whole months)**

16	MONTHS OF	PERCENTAGE	GUIDELINE TERM
17	MARRIAGE		OF MAINTENANCE
18	36	31.00%	11
19	37	31.17%	12
20	38	31.33%	12
21	39	31.50%	12
22	40	31.67%	13
23	41	31.83%	13
24	42	32.00%	13
25	43	32.17%	14
26	44	32.33%	14
27	45	32.50%	15

1	46	32.67%	15
2	47	32.83%	15
3	48	33.00%	16
4	49	33.17%	16
5	50	33.33%	17
6	51	33.50%	17
7	52	33.67%	18
8	53	33.83%	18
9	54	34.00%	18
10	55	34.17%	19
11	56	34.33%	19
12	57	34.50%	20
13	58	34.67%	20
14	59	34.83%	21
15	60	35.00%	21
16	61	35.17%	21
17	62	35.33%	22
18	63	35.50%	22
19	64	35.67%	23
20	65	35.83%	23
21	66	36.00%	24
22	67	36.17%	24
23	68	36.33%	25
24	69	36.50%	25
25	70	36.67%	26
26	71	36.83%	26
27	72	37.00%	27

1	73	37.17%	27
2	74	37.33%	28
3	75	37.50%	28
4	76	37.67%	29
5	77	37.83%	29
6	78	38.00%	30
7	79	38.17%	30
8	80	38.33%	31
9	81	38.50%	31
10	82	38.67%	32
11	83	38.83%	32
12	84	39.00%	33
13	85	39.17%	33
14	86	39.33%	34
15	87	39.50%	34
16	88	39.67%	35
17	89	39.83%	35
18	90	40.00%	36
19	91	40.17%	37
20	92	40.33%	37
21	93	40.50%	38
22	94	40.67%	38
23	95	40.83%	39
24	96	41.00%	39
25	97	41.17%	40
26	98	41.33%	41
27	99	41.50%	41

1	100	41.67%	42
2	101	41.83%	42
3	102	42.00%	43
4	103	42.17%	43
5	104	42.33%	44
6	105	42.50%	45
7	106	42.67%	45
8	107	42.83%	46
9	108	43.00%	46
10	109	43.17%	47
11	110	43.33%	48
12	111	43.50%	48
13	112	43.67%	49
14	113	43.83%	50
15	114	44.00%	50
16	115	44.17%	51
17	116	44.33%	51
18	117	44.50%	52
19	118	44.67%	53
20	119	44.83%	53
21	120	45.00%	54
22	121	45.17%	55
23	122	45.33%	55
24	123	45.50%	56
25	124	45.67%	57
26	125	45.83%	57
27	126	46.00%	58

1	127	46.17%	59
2	128	46.33%	59
3	129	46.50%	60
4	130	46.67%	61
5	131	46.83%	61
6	132	47.00%	62
7	133	47.17%	63
8	134	47.33%	63
9	135	47.50%	64
10	136	47.67%	65
11	137	47.83%	66
12	138	48.00%	66
13	139	48.17%	67
14	140	48.33%	68
15	141	48.50%	68
16	142	48.67%	69
17	143	48.83%	70
18	144	49.00%	71
19	145	49.17%	71
20	146	49.33%	72
21	147	49.50%	73
22	148	49.67%	74
23	149	49.83%	74
24	150	50.00%	75
25	151	50.17%	76
26	152	50.33%	77
27	153	50.50%	77

1	154	50.67%	78
2	155	50.83%	79
3	156	51.00%	80
4	157	51.17%	80
5	158	51.33%	81
6	159	51.50%	82
7	160	51.67%	83
8	161	51.83%	83
9	162	52.00%	84
10	163	52.17%	85
11	164	52.33%	86
12	165	52.50%	87
13	166	52.67%	87
14	167	52.83%	88
15	168	53.00%	89
16	169	53.17%	90
17	170	53.33%	91
18	171	53.50%	91
19	172	53.67%	92
20	173	53.83%	93
21	174	54.00%	94
22	175	54.17%	95
23	176	54.33%	96
24	177	54.50%	96
25	178	54.67%	97
26	179	54.83%	98
27	180	55.00%	99

1	181	55.17%	100
2	182	55.33%	101
3	183	55.50%	102
4	184	55.67%	102
5	185	55.83%	103
6	186	56.00%	104
7	187	56.17%	105
8	188	56.33%	106
9	189	56.50%	107
10	190	56.67%	108
11	191	56.83%	109
12	192	57.00%	109
13	193	57.17%	110
14	194	57.33%	111
15	195	57.50%	112
16	196	57.67%	113
17	197	57.83%	114
18	198	58.00%	115
19	199	58.17%	116
20	200	58.33%	117
21	201	58.50%	118
22	202	58.67%	119
23	203	58.83%	119
24	204	59.00%	120
25	205	59.17%	121
26	206	59.33%	122
27	207	59.50%	123

1	208	59.67%	124
2	209	59.83%	125
3	210	60.00%	126
4	211	60.17%	127
5	212	60.33%	128
6	213	60.50%	129
7	214	60.67%	130
8	215	60.83%	131
9	216	61.00%	132
10	217	61.17%	133
11	218	61.33%	134
12	219	61.50%	135
13	220	61.67%	136
14	221	61.83%	137
15	222	62.00%	138
16	223	62.17%	139
17	224	62.33%	140
18	225	62.50%	141
19	226	62.67%	142
20	227	62.83%	143
21	228	63.00%	144
22	229	63.17%	145
23	230	63.33%	146
24	231	63.50%	147
25	232	63.67%	148
26	233	63.83%	149
27	234	64.00%	150

1	235	64.17%	151
2	236	64.33%	152
3	237	64.50%	153
4	238	64.67%	154
5	239	64.83%	155
6	240	65.00%	156

7 (c) **Factors affecting the amount and term of maintenance.** IN
8 ANY PROCEEDING FOR MAINTENANCE, THE COURT SHALL CONSIDER ALL
9 RELEVANT FACTORS, INCLUDING BUT NOT LIMITED TO:

10 (I) THE FINANCIAL RESOURCES OF THE RECIPIENT SPOUSE,
11 INCLUDING THE ACTUAL OR POTENTIAL INCOME FROM SEPARATE OR
12 MARITAL PROPERTY OR ANY OTHER SOURCE AND THE ABILITY OF THE
13 RECIPIENT SPOUSE TO MEET HIS OR HER NEEDS INDEPENDENTLY;

14 (II) THE FINANCIAL RESOURCES OF THE PAYOR SPOUSE, INCLUDING
15 THE ACTUAL OR POTENTIAL INCOME FROM SEPARATE OR MARITAL
16 PROPERTY OR ANY OTHER SOURCE AND THE ABILITY OF THE PAYOR SPOUSE
17 TO MEET HIS OR HER REASONABLE NEEDS WHILE PAYING MAINTENANCE;

18 (III) THE LIFESTYLE DURING THE MARRIAGE;

19 (IV) THE DISTRIBUTION OF MARITAL PROPERTY, INCLUDING
20 WHETHER ADDITIONAL MARITAL PROPERTY MAY BE AWARDED TO REDUCE
21 OR ALLEVIATE THE NEED FOR MAINTENANCE;

22 (V) BOTH PARTIES' INCOME, EMPLOYMENT, AND EMPLOYABILITY,
23 OBTAINABLE THROUGH REASONABLE DILIGENCE AND ADDITIONAL
24 TRAINING OR EDUCATION, IF NECESSARY, AND ANY NECESSARY
25 REDUCTION IN EMPLOYMENT DUE TO THE NEEDS OF AN UNEMANCIPATED
26 CHILD OF THE MARRIAGE OR THE CIRCUMSTANCES OF THE PARTIES;

27 (VI) WHETHER ONE PARTY HAS HISTORICALLY EARNED HIGHER OR

1 LOWER INCOME THAN THE INCOME REFLECTED AT THE TIME OF
2 PERMANENT ORDERS AND THE DURATION AND CONSISTENCY OF INCOME
3 FROM OVERTIME OR SECONDARY EMPLOYMENT;

4 (VII) THE DURATION OF THE MARRIAGE;

5 (VIII) THE AMOUNT OF TEMPORARY MAINTENANCE AND THE
6 NUMBER OF MONTHS THAT TEMPORARY MAINTENANCE WAS PAID TO THE
7 RECIPIENT SPOUSE;

8 (IX) THE AGE AND HEALTH OF THE PARTIES, INCLUDING
9 CONSIDERATION OF SIGNIFICANT HEALTH CARE NEEDS OR UNINSURED OR
10 UNREIMBURSED HEALTH CARE EXPENSES;

11 (X) SIGNIFICANT ECONOMIC OR NONECONOMIC CONTRIBUTION TO
12 THE MARRIAGE OR TO THE ECONOMIC, EDUCATIONAL, OR OCCUPATIONAL
13 ADVANCEMENT OF A PARTY, INCLUDING BUT NOT LIMITED TO COMPLETING
14 AN EDUCATION OR JOB TRAINING, PAYMENT BY ONE SPOUSE OF THE OTHER
15 SPOUSE'S SEPARATE DEBTS, OR ENHANCEMENT OF THE OTHER SPOUSE'S
16 PERSONAL OR REAL PROPERTY;

17 (XI) WHETHER THE CIRCUMSTANCES OF THE PARTIES AT THE TIME
18 OF PERMANENT ORDERS WARRANT THE AWARD OF A NOMINAL AMOUNT OF
19 MAINTENANCE IN ORDER TO PRESERVE A CLAIM OF MAINTENANCE IN THE
20 FUTURE; AND

21 (XII) ANY OTHER FACTOR THAT THE COURT DEEMS RELEVANT.

22 (d) AFTER CONSIDERING THE PROVISIONS OF THIS SECTION AND
23 MAKING THE REQUIRED FINDINGS OF FACT, THE COURT SHALL AWARD
24 MAINTENANCE ONLY IF IT FINDS THAT THE SPOUSE SEEKING MAINTENANCE
25 LACKS SUFFICIENT PROPERTY, INCLUDING MARITAL PROPERTY
26 APPORTIONED TO HIM OR HER, TO PROVIDE FOR HIS OR HER REASONABLE
27 NEEDS AND IS UNABLE TO SUPPORT HIMSELF OR HERSELF THROUGH

1 APPROPRIATE EMPLOYMENT OR IS THE CUSTODIAN OF A CHILD WHOSE
2 CONDITION OR CIRCUMSTANCES MAKE IT INAPPROPRIATE FOR THE SPOUSE
3 TO BE REQUIRED TO SEEK EMPLOYMENT OUTSIDE THE HOME.

4 (e) THE MAINTENANCE GUIDELINES SET FORTH IN PARAGRAPH (b)
5 OF THIS SUBSECTION (3) DO NOT CREATE A PRESUMPTIVE AMOUNT OR
6 TERM OF MAINTENANCE. THE COURT HAS DISCRETION TO DETERMINE THE
7 AWARD OF MAINTENANCE THAT IS FAIR AND EQUITABLE TO BOTH PARTIES
8 BASED UPON THE TOTALITY OF THE CIRCUMSTANCES. THE COURT SHALL
9 MAKE SPECIFIC WRITTEN OR ORAL FINDINGS IN SUPPORT OF THE AMOUNT
10 AND TERM OF MAINTENANCE AWARDED PURSUANT TO THIS SECTION OR AN
11 ORDER DENYING MAINTENANCE.

12 (f) THE COURT MAY AWARD ADDITIONAL MARITAL PROPERTY TO
13 THE RECIPIENT SPOUSE OR OTHERWISE ADJUST THE DISTRIBUTION OF
14 MARITAL PROPERTY OR DEBT TO ALLEVIATE THE NEED FOR MAINTENANCE
15 OR TO REDUCE THE AMOUNT OR TERM OF MAINTENANCE AWARDED.

16 (g) THE COURT MAY RESERVE JURISDICTION TO ESTABLISH,
17 REVIEW, OR MODIFY AN AWARD OF MAINTENANCE AT A LATER DATE
18 PURSUANT TO THE PROVISIONS OF THIS SECTION BY SETTING FORTH:

19 (I) THE REASONS FOR RESERVING JURISDICTION;

20 (II) THE ASCERTAINABLE FUTURE EVENT THAT FORMS THE BASIS
21 FOR RESERVING JURISDICTION; AND

22 (III) A REASONABLY SPECIFIC TIME WITHIN WHICH MAINTENANCE
23 MAY BE CONSIDERED PURSUANT TO THIS SECTION.

24 (h) THE COURT MAY AWARD MAINTENANCE IN SHORT-TERM
25 MARRIAGES, INCLUDING MARRIAGES OF LESS THAN THREE YEARS IN
26 DURATION, WHEN, GIVEN THE CIRCUMSTANCES OF THE PARTIES, THE
27 DISTRIBUTION OF MARITAL PROPERTY IS INSUFFICIENT TO ACHIEVE AN

1 EQUITABLE RESULT. IN DETERMINING THE AWARD OF MAINTENANCE, THE
2 COURT MAY CONSIDER THE MAINTENANCE GUIDELINES AND THE RELEVANT
3 FACTORS AFFECTING THE AMOUNT AND TERM OF MAINTENANCE SET FORTH
4 IN THIS SUBSECTION (3). THE COURT SHALL MAKE WRITTEN OR ORAL
5 FINDINGS PURSUANT TO PARAGRAPH (e) OF THIS SUBSECTION (3).

6 (i) NOTHING IN THIS SECTION PROHIBITS AN AWARD OF
7 MAINTENANCE IN GROSS.

8 (4) **Temporary maintenance.** (a) (I) IN EVERY PROCEEDING FOR
9 DISSOLUTION OF MARRIAGE, LEGAL SEPARATION, OR DECLARATION OF
10 INVALIDITY WHERE TEMPORARY MAINTENANCE IS REQUESTED BY A PARTY,
11 THE COURT MAY AWARD A MONTHLY AMOUNT OF TEMPORARY
12 MAINTENANCE PURSUANT TO THE PROVISIONS OF SUBSECTION (3) OF THIS
13 SECTION THAT ARE RELEVANT TO A DETERMINATION OF TEMPORARY
14 MAINTENANCE.

15 (II) THE GUIDELINE TERM OF MAINTENANCE SET FORTH IN
16 SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (3) OF THIS
17 SECTION DOES NOT APPLY TO TEMPORARY MAINTENANCE ORDERS. THE
18 COURT SHALL DETERMINE THE TERM FOR PAYMENT OF TEMPORARY
19 MAINTENANCE.

20 (III) IN ADDITION TO THE RELEVANT FACTORS SET FORTH IN
21 PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION, THE COURT SHALL
22 CONSIDER ANY ADDITIONAL FACTORS SPECIFIC TO THE DETERMINATION OF
23 TEMPORARY MAINTENANCE, INCLUDING THE PAYMENT OF FAMILY
24 EXPENSES AND DEBTS.

25 (b) AFTER DETERMINING THE AMOUNT OF TEMPORARY
26 MAINTENANCE PURSUANT TO THIS SUBSECTION (4) AND THE AMOUNT OF
27 TEMPORARY CHILD SUPPORT PURSUANT TO SECTION 14-10-115, THE

1 COURT SHALL CONSIDER THE RESPECTIVE FINANCIAL RESOURCES OF EACH
2 PARTY AND DETERMINE THE TEMPORARY PAYMENT OF MARITAL DEBT AND
3 THE TEMPORARY ALLOCATION OF MARITAL PROPERTY.

4 (c) A DETERMINATION OF TEMPORARY MAINTENANCE DOES NOT
5 PREJUDICE THE RIGHTS OF EITHER PARTY AT PERMANENT ORDERS.

6 (5) **Modification or termination of maintenance.** (a) EXCEPT
7 UPON WRITTEN AGREEMENT OF THE PARTIES, AN AWARD OF MAINTENANCE
8 ENTERED PURSUANT TO THIS SECTION MAY BE MODIFIED OR TERMINATED
9 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (5) AND THE
10 PROVISIONS OF SECTION 14-10-122. THE COURT MAY CONSIDER THE
11 GUIDELINE AMOUNT AND TERM OF MAINTENANCE AND THE STATUTORY
12 FACTORS SET FORTH IN SUBSECTION (3) OF THIS SECTION IN A
13 MODIFICATION OR TERMINATION PROCEEDING.

14 (b) (I) MAINTENANCE AWARDED AT PERMANENT ORDERS FOR
15 ACTIONS FILED ON OR AFTER JANUARY 1, 2014, MAY BE SUSPENDED,
16 REDUCED, OR TERMINATED BASED UPON THE COHABITATION OF THE
17 RECIPIENT SPOUSE WHEN THE PAYOR SPOUSE SHOWS THAT THE RECIPIENT
18 SPOUSE HAS MAINTAINED A PRIMARY RESIDENCE WITH ANOTHER PERSON
19 AS A COUPLE, WITH OR WITHOUT OTHERS, FOR A CONTINUOUS PERIOD OF
20 AT LEAST SIX MONTHS AFTER THE ENTRY OF THE INITIAL ORDER. IN
21 DETERMINING WHETHER THE RECIPIENT SPOUSE IS MAINTAINING A
22 PRIMARY RESIDENCE WITH ANOTHER PERSON AS A COUPLE, THE COURT
23 MAY CONSIDER THE FOLLOWING FACTORS:

24 (A) ORAL OR WRITTEN STATEMENTS OR REPRESENTATIONS MADE
25 TO THIRD PARTIES REGARDING THE RELATIONSHIP OF THE PERSONS;

26 (B) THE ECONOMIC INTERDEPENDENCE OF THE COUPLE OR THE
27 ECONOMIC DEPENDENCE OF ONE PERSON ON THE OTHER;

1 (C) THE COUPLE ENGAGING IN CONDUCT AND COLLABORATIVE
2 ROLES IN FURTHERANCE OF THEIR LIFE TOGETHER;

3 (D) THE BENEFIT IN THE LIFE OF EITHER OR BOTH PERSONS FROM
4 THEIR RELATIONSHIP;

5 (E) THE COMMUNITY REPUTATION OF THE PARTIES AS A COUPLE;
6 AND

7 (F) ANY OTHER FACTORS THAT THE COURT DEEMS RELEVANT.

8 (II) MAINTENANCE ORDERS THAT ARE REDUCED, SUSPENDED, OR
9 TERMINATED PURSUANT TO THIS PARAGRAPH (b) MAY BE REINSTATED
10 UPON TERMINATION OF THE RECIPIENT SPOUSE'S COHABITATION WITH
11 ANOTHER PERSON; EXCEPT THAT, IF THE MAINTENANCE IS REINSTATED, IT
12 SHALL NOT EXTEND BEYOND THE END OF THE MAINTENANCE TERM IN THE
13 ORIGINAL ORDER.

14 (c) THE ENACTMENT OF THIS SECTION DOES NOT CONSTITUTE A
15 SUBSTANTIAL AND CONTINUING CHANGE OF CIRCUMSTANCE FOR PURPOSES
16 OF MODIFYING MAINTENANCE ORDERS ENTERED BEFORE JANUARY 1, 2014.

17 (6) **Security for the payment of maintenance.** (a) THE COURT
18 MAY REQUIRE THE PAYOR SPOUSE TO PROVIDE REASONABLE SECURITY FOR
19 THE PAYMENT OF MAINTENANCE IN THE EVENT OF THE PAYOR SPOUSE'S
20 DEATH PRIOR TO THE END OF THE MAINTENANCE TERM.

21 (b) REASONABLE SECURITY MAY INCLUDE, BUT NEED NOT BE
22 LIMITED TO, MAINTENANCE OF LIFE INSURANCE FOR THE BENEFIT OF THE
23 RECIPIENT SPOUSE. IN ENTERING AN ORDER TO MAINTAIN LIFE INSURANCE,
24 THE COURT SHALL CONSIDER:

25 (I) THE AGE AND INSURABILITY OF THE PAYOR SPOUSE;

26 (II) THE COST OF THE LIFE INSURANCE;

27 (III) THE AMOUNT AND TERM OF THE MAINTENANCE;

1 (IV) WHETHER THE PARTIES CARRIED LIFE INSURANCE DURING THE
2 MARRIAGE;

3 (V) PREVAILING INTEREST RATES AT THE TIME OF THE ORDER; AND

4 (VI) OTHER OBLIGATIONS OF THE PAYOR SPOUSE.

5 (c) ORDERS TO MAINTAIN SECURITY MAY BE MODIFIED OR
6 TERMINATED PURSUANT TO SECTION 14-10-122.

7 (7) **Maintenance agreements - waiver - unrepresented parties.**

8 (a) EITHER OR BOTH OF THE PARTIES MAY AGREE IN WRITING OR ORALLY
9 IN COURT TO WAIVE MAINTENANCE CONSISTENT WITH THE PROVISIONS OF
10 SECTION 14-10-112. THE PARTIES MAY ALSO AGREE TO WAIVE
11 MAINTENANCE IN A MARITAL AGREEMENT CONSISTENT WITH THE
12 PROVISIONS OF THE "COLORADO MARITAL AGREEMENT ACT", CREATED
13 IN PART 3 OF ARTICLE 2 OF THIS TITLE. THE ENFORCEABILITY OF
14 MAINTENANCE PROVISIONS IN A MARITAL AGREEMENT IS DETERMINED
15 PURSUANT TO THE PROVISIONS OF SECTION 14-2-307.

16 (b) IN ANY PROCEEDING THAT FALLS WITHIN THE MAINTENANCE
17 GUIDELINES SET FORTH IN SUBSECTION (3) OF THIS SECTION, AT THE TIME
18 OF EITHER TEMPORARY ORDERS OR PERMANENT ORDERS, IF EITHER PARTY
19 IS NOT REPRESENTED BY AN ATTORNEY, THE COURT SHALL NOT APPROVE
20 AN AGREEMENT WAIVING MAINTENANCE OR AGREEING TO AN AMOUNT OR
21 TERM OF MAINTENANCE THAT DOES NOT FOLLOW THE MAINTENANCE
22 GUIDELINES UNLESS THE UNREPRESENTED PARTY HAS INDICATED THAT HE
23 OR SHE IS AWARE OF THE MAINTENANCE GUIDELINES PURSUANT TO THIS
24 SECTION.

25 (8) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
26 OTHERWISE REQUIRES:

27 (a) (I) "ADJUSTED GROSS INCOME" MEANS GROSS INCOME AS

1 DEFINED IN PARAGRAPH (c) OF THIS SUBSECTION (8), LESS PREEXISTING
2 COURT-ORDERED CHILD SUPPORT OBLIGATIONS ACTUALLY PAID BY A
3 PARTY, PREEXISTING COURT-ORDERED ALIMONY OR MAINTENANCE
4 OBLIGATIONS ACTUALLY PAID BY A PARTY, AND THE ADJUSTMENT TO A
5 PARTY'S INCOME AS DETERMINED PURSUANT TO SECTION 14-10-115 (6) (b)
6 (I), FOR ANY CHILDREN WHO ARE NOT CHILDREN OF THE MARRIAGE FOR
7 WHOM THE PARTY HAS A LEGAL RESPONSIBILITY TO SUPPORT.

8 (II) FOR PURPOSES OF THIS PARAGRAPH (a), "INCOME" MEANS THE
9 ACTUAL GROSS INCOME OF A PARTY, IF EMPLOYED TO FULL CAPACITY, OR
10 POTENTIAL INCOME, IF UNEMPLOYED OR UNDEREMPLOYED.

11 (b) "DURATION OF MARRIAGE" MEANS THE NUMBER OF WHOLE
12 MONTHS, BEGINNING FROM THE FIRST DAY OF THE MONTH FOLLOWING THE
13 DATE OF THE PARTIES' MARRIAGE UNTIL THE DATE OF DECREE OR THE
14 DATE OF THE HEARING ON DISPOSITION OF PROPERTY IF SUCH HEARING
15 PRECEDES THE DATE OF THE DECREE.

16 (c) (I) "GROSS INCOME" MEANS INCOME FROM ANY SOURCE AND
17 INCLUDES, BUT IS NOT LIMITED TO:

18 (A) INCOME FROM SALARIES;

19 (B) WAGES, INCLUDING TIPS DECLARED BY THE INDIVIDUAL FOR
20 PURPOSES OF REPORTING TO THE FEDERAL INTERNAL REVENUE SERVICE OR
21 TIPS IMPUTED TO BRING THE EMPLOYEE'S GROSS EARNINGS TO THE
22 MINIMUM WAGE FOR THE NUMBER OF HOURS WORKED, WHICHEVER IS
23 GREATER;

24 (C) COMMISSIONS;

25 (D) PAYMENTS RECEIVED AS AN INDEPENDENT CONTRACTOR FOR
26 LABOR OR SERVICES, WHICH PAYMENTS MUST BE CONSIDERED INCOME
27 FROM SELF-EMPLOYMENT;

- 1 (E) BONUSES;
- 2 (F) DIVIDENDS;
- 3 (G) SEVERANCE PAY;
- 4 (H) PENSION PAYMENTS AND RETIREMENT BENEFITS ACTUALLY
- 5 RECEIVED THAT HAVE NOT PREVIOUSLY BEEN DIVIDED AS PROPERTY IN
- 6 THIS ACTION, INCLUDING BUT NOT LIMITED TO THOSE PAID PURSUANT TO
- 7 ARTICLES 51, 54, 54.5, AND 54.6 OF TITLE 24, C.R.S., AND ARTICLE 30 OF
- 8 TITLE 31, C.R.S.;
- 9 (I) ROYALTIES;
- 10 (J) RENTS;
- 11 (K) INTEREST;
- 12 (L) TRUST INCOME AND DISTRIBUTIONS;
- 13 (M) ANNUITY PAYMENTS;
- 14 (N) CAPITAL GAINS;
- 15 (O) ANY MONEYS DRAWN BY A SELF-EMPLOYED INDIVIDUAL FOR
- 16 PERSONAL USE THAT ARE DEDUCTED AS A BUSINESS EXPENSE, WHICH
- 17 MONEYS MUST BE CONSIDERED INCOME FROM SELF-EMPLOYMENT;
- 18 (P) SOCIAL SECURITY BENEFITS, INCLUDING SOCIAL SECURITY
- 19 BENEFITS ACTUALLY RECEIVED BY A PARTY AS A RESULT OF THE
- 20 DISABILITY OF THAT PARTY;
- 21 (Q) WORKERS' COMPENSATION BENEFITS;
- 22 (R) UNEMPLOYMENT INSURANCE BENEFITS;
- 23 (S) DISABILITY INSURANCE BENEFITS;
- 24 (T) FUNDS HELD IN OR PAYABLE FROM ANY HEALTH, ACCIDENT,
- 25 DISABILITY, OR CASUALTY INSURANCE TO THE EXTENT THAT SUCH
- 26 INSURANCE REPLACES WAGES OR PROVIDES INCOME IN LIEU OF WAGES;
- 27 (U) MONETARY GIFTS;

1 (V) MONETARY PRIZES, EXCLUDING LOTTERY WINNINGS NOT
2 REQUIRED BY THE RULES OF THE COLORADO LOTTERY COMMISSION TO BE
3 PAID ONLY AT THE LOTTERY OFFICE;

4 (W) INCOME FROM GENERAL PARTNERSHIPS, LIMITED
5 PARTNERSHIPS, CLOSELY HELD CORPORATIONS, OR LIMITED LIABILITY
6 COMPANIES; EXCEPT THAT, IF A PARTY IS A PASSIVE INVESTOR, HAS A
7 MINORITY INTEREST IN THE COMPANY, AND DOES NOT HAVE ANY
8 MANAGERIAL DUTIES OR INPUT, THEN THE INCOME TO BE RECOGNIZED MAY
9 BE LIMITED TO ACTUAL CASH DISTRIBUTIONS RECEIVED;

10 (X) EXPENSE REIMBURSEMENTS OR IN-KIND PAYMENTS RECEIVED
11 BY A PARTY IN THE COURSE OF EMPLOYMENT, SELF-EMPLOYMENT, OR
12 OPERATION OF A BUSINESS IF THEY ARE SIGNIFICANT AND REDUCE
13 PERSONAL LIVING EXPENSES;

14 (Y) ALIMONY OR MAINTENANCE RECEIVED; AND

15 (Z) OVERTIME PAY, ONLY IF THE OVERTIME IS REQUIRED BY THE
16 EMPLOYER AS A CONDITION OF EMPLOYMENT.

17 (II) "GROSS INCOME" DOES NOT INCLUDE:

18 (A) CHILD SUPPORT PAYMENTS RECEIVED;

19 (B) BENEFITS RECEIVED FROM MEANS-TESTED PUBLIC ASSISTANCE
20 PROGRAMS, INCLUDING BUT NOT LIMITED TO ASSISTANCE PROVIDED
21 UNDER THE COLORADO WORKS PROGRAM, AS DESCRIBED IN PART 7 OF
22 ARTICLE 2 OF TITLE 26, C.R.S., SUPPLEMENTAL SECURITY INCOME, FOOD
23 STAMPS, AND GENERAL ASSISTANCE;

24 (C) INCOME FROM ADDITIONAL JOBS THAT RESULT IN THE
25 EMPLOYMENT OF THE OBLIGOR MORE THAN FORTY HOURS PER WEEK OR
26 MORE THAN WHAT WOULD OTHERWISE BE CONSIDERED TO BE FULL-TIME
27 EMPLOYMENT; AND

1 (D) SOCIAL SECURITY BENEFITS RECEIVED BY A PARENT ON
2 BEHALF OF A MINOR CHILD AS A RESULT OF THE DEATH OR DISABILITY OF
3 A PARENT OR STEPPARENT.

4 (E) EARNINGS OR GAINS ON RETIREMENT ACCOUNTS, INCLUDING
5 INDIVIDUAL RETIREMENT ACCOUNTS; EXCEPT THAT SUCH EARNINGS OR
6 GAINS SHALL NOT BE INCLUDED AS INCOME UNLESS A PARTY TAKES A
7 DISTRIBUTION FROM THE ACCOUNT. IF A PARTY MAY TAKE A DISTRIBUTION
8 FROM THE ACCOUNT WITHOUT BEING SUBJECT TO A FEDERAL TAX PENALTY
9 FOR EARLY DISTRIBUTION AND THE PARTY CHOOSES NOT TO TAKE A
10 DISTRIBUTION, THE COURT MAY CONSIDER THE DISTRIBUTION THAT COULD
11 HAVE BEEN TAKEN IN DETERMINING THE PARTY'S GROSS INCOME.

12 (III) (A) FOR INCOME FROM SELF-EMPLOYMENT, RENT, ROYALTIES,
13 PROPRIETORSHIP OF A BUSINESS, OR JOINT OWNERSHIP OF A PARTNERSHIP
14 OR CLOSELY HELD CORPORATION, "GROSS INCOME" EQUALS GROSS
15 RECEIPTS MINUS ORDINARY AND NECESSARY EXPENSES, AS DEFINED IN
16 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (III), REQUIRED TO
17 PRODUCE SUCH INCOME.

18 (B) "ORDINARY AND NECESSARY EXPENSES", AS USED IN
19 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III), DOES NOT INCLUDE
20 AMOUNTS ALLOWABLE BY THE INTERNAL REVENUE SERVICE FOR THE
21 ACCELERATED COMPONENT OF DEPRECIATION EXPENSES OR INVESTMENT
22 TAX CREDITS OR ANY OTHER BUSINESS EXPENSES DETERMINED BY THE
23 COURT TO BE INAPPROPRIATE FOR DETERMINING GROSS INCOME FOR
24 PURPOSES OF CALCULATING MAINTENANCE.

25 (IV) IF A PARTY IS VOLUNTARILY UNEMPLOYED OR
26 UNDEREMPLOYED, MAINTENANCE SHALL BE CALCULATED BASED ON A
27 DETERMINATION OF POTENTIAL INCOME; EXCEPT THAT A DETERMINATION

1 OF POTENTIAL INCOME SHALL NOT BE MADE FOR A PARTY WHO IS
2 PHYSICALLY OR MENTALLY INCAPACITATED OR IS CARING FOR A CHILD
3 UNDER THE AGE OF THIRTY MONTHS FOR WHOM THE PARTIES OWE A JOINT
4 LEGAL RESPONSIBILITY OR FOR AN INCARCERATED PARENT SENTENCED TO
5 ONE YEAR OR MORE.

6 (V) FOR THE PURPOSES OF THIS SECTION, A PARTY SHALL NOT BE
7 DEEMED "UNDEREMPLOYED" IF:

8 (A) THE EMPLOYMENT IS TEMPORARY AND IS REASONABLY
9 INTENDED TO RESULT IN HIGHER INCOME WITHIN THE FORESEEABLE
10 FUTURE; OR

11 (B) THE EMPLOYMENT IS A GOOD FAITH CAREER CHOICE; OR

12 (C) THE PARTY IS ENROLLED IN AN EDUCATIONAL PROGRAM THAT
13 IS REASONABLY INTENDED TO RESULT IN A DEGREE OR CERTIFICATION
14 WITHIN A REASONABLE PERIOD OF TIME AND THAT WILL RESULT IN A
15 HIGHER INCOME, SO LONG AS THE EDUCATIONAL PROGRAM IS A GOOD
16 FAITH CAREER CHOICE.

17 (9) **Application.** THE PROVISIONS OF THIS SECTION APPLY ONLY TO
18 ACTIONS IN WHICH A PETITION FOR DISSOLUTION, LEGAL SEPARATION, OR
19 DECLARATION OF INVALIDITY, OR AN ACTION FOR THE INITIAL
20 ESTABLISHMENT OF MAINTENANCE IS FILED ON OR AFTER JANUARY 1,
21 2014.

22 **SECTION 2.** In Colorado Revised Statutes, 14-10-122, **amend**
23 (2) as follows:

24 **14-10-122. Modification and termination of provisions for**
25 **maintenance, support, and property disposition - automatic lien.**

26 (2) (a) Unless otherwise agreed in writing or expressly provided in the
27 decree, the obligation to pay future maintenance is terminated upon THE

1 EARLIER OF:

2 (I) The death of either party; or

3 (II) THE END OF THE MAINTENANCE TERM, UNLESS A MOTION FOR
4 MODIFICATION IS FILED PRIOR TO THE EXPIRATION OF THE TERM;

5 (III) The remarriage of the party receiving maintenance; OR

6 (IV) A COURT ORDER TERMINATING MAINTENANCE.

7 (b) A PAYOR SPOUSE WHOSE INCOME IS REDUCED OR TERMINATED
8 DUE TO HIS OR HER RETIREMENT AFTER REACHING FULL RETIREMENT AGE
9 IS ENTITLED TO A REBUTTABLE PRESUMPTION THAT THE RETIREMENT IS IN
10 GOOD FAITH.

11 (c) FOR PURPOSES OF THIS SUBSECTION (2), "FULL RETIREMENT
12 AGE" MEANS THE PAYOR'S USUAL OR ORDINARY RETIREMENT AGE WHEN
13 HE OR SHE WOULD BE ELIGIBLE FOR FULL UNITED STATES SOCIAL
14 SECURITY BENEFITS, REGARDLESS OF WHETHER HE OR SHE IS INELIGIBLE
15 FOR SOCIAL SECURITY BENEFITS FOR SOME REASON OTHER THAN
16 ATTAINING FULL RETIREMENT AGE. "FULL RETIREMENT AGE" SHALL NOT
17 MEAN "EARLY RETIREMENT AGE" IF EARLY RETIREMENT IS AVAILABLE TO
18 THE PAYOR SPOUSE, NOR SHALL IT MEAN "MAXIMUM BENEFIT RETIREMENT
19 AGE" IF ADDITIONAL BENEFITS ARE AVAILABLE AS A RESULT OF DELAYED
20 RETIREMENT.

21 **SECTION 3. Act subject to petition - effective date.** This act
22 takes effect January 1, 2014; except that, if a referendum petition is filed
23 pursuant to section 1 (3) of article V of the state constitution against this
24 act or an item, section, or part of this act within the ninety-day period
25 after final adjournment of the general assembly, then the act, item,
26 section, or part will not take effect unless approved by the people at the

1 general election to be held in November 2014 and, in such case, will take
2 effect on the date of the official declaration of the vote thereon by the
3 governor.